

SIKKIM

GOVERNMENT




GAZETTE

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LAW AND LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 11/LL/80.

Dated Gangtok, the 18th September, 1980.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 16th day of September, 1980, is hereby published for general information.

SIKKIM ACT NO. 8 OF 1980.

THE SIKKIM ENTERTAINMENT TAX ACT, 1980.

AN

ACT

to provide for imposition of a tax on entertainments and other amusements.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-first Year of the Republic of India.

1. (1) This Act may be called the Sikkim Entertainment Tax Act, 1980.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.
2. In this Act, unless there is anything repugnant in the subject or context,-
 - (a) "admission to an entertainment" includes admission to any place in which the entertainment is held;
 - (b) "agriculture" includes horticulture and livestock breeding;
 - (c) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted on payment;

Short title, extent and commencement

Definitions

Explanation:— The exhibition of news reels, documentaries, advertisement, slides and cartoons, whether before or during the exhibition of a feature film is "entertainment":

- (d) "Government" means the Government of the State of Sikkim;
- (e) "notification" means a notification published in the official Gazette;
- (f) "payment for admission" includes-
 - (i) any payment made by a person who, having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving tax or more tax is required;

- (ii) any payment for seats or other accommodation in a place of entertainment;
- (iii) any payment for a programme or synopsis of an entertainment; and
- (iv) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;

(g) "proprietor" in relation to any entertainment includes any person responsible for the management thereof;

Explanation— A person charged with the work of admission to an entertainment is for purposes of sections 5 and 6 a person responsible for the management;

(h) "society" includes a company, institution, club or other association of persons by whatever name called.

Tax on payment for admission to entertainment

3. (1) There shall be levied and paid on all payments for admission to any entertainment, a tax called entertainment tax at a rate not exceeding fifty per cent of the payment for admission where such payment does not exceed one rupee and not exceeding seventy-five per cent thereof in any other case as the Government may from time to time specify by a notification in this behalf and the tax shall be collected by the proprietor and paid to the Government in the manner prescribed.

(2) If in any entertainment to which admission is generally on payment, any person is admitted free of charge or on a concessional rate, he would be liable to pay the same amount of entertainment tax as would be payable by him had he been admitted on full payment to the class to which he is entitled.

Amount payable on lumpsum subscription as contributions or on season tickets

4. Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society or for season tickets, the entertainment tax shall be paid on the amount of the lump sum but where the Government is of the opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, the tax shall be charged on such amount as appears to the Government to represent the right of admission to entertainments in respect of which the entertainment tax is payable.

Manner of admission and payment

5. (1) Save as otherwise provided in this Act, no person, other than a person who has some duty to perform in connection with the entertainment or a duty imposed upon him by law, shall be admitted to any entertainment, except with a ticket denoting that the proper entertainment tax payable under section 3 or section 4 has been paid.

(2) The Government may, on such conditions as may be prescribed, require the proprietor to pay the amount of the entertainment tax due either—

(a) by stamping the tickets with a seal or with an impressed, embossed, engraved or adhesive stamp (not used before) issued by the Government for the purpose of revenue and denoting that the proper entertainment tax payable under section 3 or section 4 has been paid, or

(b) in accordance with returns of the payments for admission to the entertainment and on account of the tax; or

(c) by a consolidated payment of a percentage, to be fixed by the Government of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax; or

(d) in accordance with results recorded by any mechanical contrivance which automatically registers the number of persons admitted.

(3) For the purpose of bringing uniformity in the realisation of entertainment tax the Government shall classify the entertainments in the manner prescribed.

(4) The decision of the Government under sub-section (3) shall be final and shall not be questioned in any Court of law.

Prohibition against entry and penalty

6. (1) No person liable to pay entertainment tax shall enter or obtain admission to an entertainment without payment of the tax leviable under section 3 or section 4.

(2) Any person who enters or obtains admission to an entertainment in contravention of the provision of sub-section (1), shall on conviction before a Magistrate, be liable to pay a fine not exceeding two hundred rupees and shall in addition be liable to pay the tax which would have been paid by him.

(3) If any person liable to pay entertainment tax is admitted to a place of entertainment without payment of the tax leviable under section 3 or section 4 the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of every such contravention to a fine not exceeding rupees five hundred.

7. (1) The entertainment tax shall not be charged on payment for admission to any entertainment where the Government is satisfied—

(a) that the whole of the collections therefrom are devoted to philanthropic, religious or charitable purposes without any deductions for any expenses of the entertainment; or

(b) that the entertainment is of a wholly educational character, or

Explanation: Any question whether any entertainment is of a wholly educational character shall be decided by the Government whose decision shall be final.

(c) that the entertainment is provided for partly educational or partly scientific purposes by a society not conducted or established for profit; or

(d) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of industry or agriculture or the manufacturing industry, or some branch thereof, or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof for promoting the interest of which the society exists or of materials, machinery, appliances, or food-stuffs, used in the production of those products, or of articles which are of material interest in connection with the question relating to the public health, as the case may be.

(2) The Government may, by general or special order, exempt either partly or wholly any entertainment or class of entertainment or any class of the audience or spectators from liability to the entertainment tax.

8. Any sum due on account of entertainment tax shall be recovered as an arrear of land revenue.

9. (1) Any officer authorised by the Government may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment, at any reasonable time, for the purpose of checking whether provisions of the Act or of any rules made thereunder are being complied with.

(2) If any person prevents or obstructs the entry of any officer so authorised, he shall in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorised under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

10. (1) The Government may make rules for securing the payment of the entertainment tax and generally for carrying into effect the provisions of the Act and in particular -

(a) for the supply and use of stamps or stamped tickets or for the stamping of tickets and for securing the defacement of stamps when used;

(b) for classification of entertainments for the purpose of bringing uniformity in realisation of the entertainment tax;

(c) for the use of tickets covering the admission of more than one person and the calculation of the entertainment tax thereon;

(d) for controlling the use of barriers or mechanical contrivance (including the prevention of the use of the same barrier or mechanical contrivance for payment of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivance.

(e) for the checking of admission, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of sub-section (2) of section 5 are applied or in respect of which the arrangements approved by the Government for furnishing returns are made under the said provisions;

(f) for the renewal of damaged or spoiled stamps;

(g) for the keeping of accounts of all stamps used under this Act,

(h) for the presentation and disposal of applications for exemption from payment of the entertainment tax, made under the provisions of this Act;

(i) for the exemption from the entertainment tax of any class of the audience or spectators.



Exemptions

Recovery as arrears of land revenue

Entry of authorised persons

Power to make Rules and Penalty for their breach

(2) If any person acts in contravention of, or fails to comply with, any such rules he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding two hundred rupees.

Revocation and suspension of licence for entertainment

11. Notwithstanding anything contained in any other law and without prejudice to the provisions of section 6, the District Magistrate may by order revoke or suspend any licence for an entertainment granted under any law for the time being in force, if the proprietor of such entertainment is convicted under the provisions of this Act. A copy of the order shall be communicated immediately to the proprietor who may appeal to the Government or such officer as the Government may specify in this behalf within one month from the date on which the order is served on him. The order passed in appeal shall be final.

Explanation - (1) The order of the District Magistrate shall be deemed to be duly served if a copy thereof is delivered to the proprietor in person, or if the District Magistrate is satisfied that such personal service cannot be made, then by affixation of a copy of the order at a prominent place at the site of the said entertainment.

(2) For the purpose of this section the word "licence" shall be deemed to include a licence or permit for any entertainment granted by any authority.

Prohibition against re-sale of tickets

12. (1) Notwithstanding anything contained in any other law for the time being in force a ticket for admission to an entertainment shall not be resold for profit by the purchaser thereof.

(2) Whosoever re-sells any ticket for admission to an entertainment for profit shall be punishable with a fine not exceeding rupees two hundred.

Repeal and Savings

13. (1) On and from the commencement of this Act, all Sikkim Laws, relating to matters for which provisions have been made in this Act and in force immediately before such commencement, shall stand repealed.

(2) Notwithstanding such repeal, anything done or action taken or proceedings commenced or tax imposed under the repealed Sikkim Laws shall be deemed to have been done, or taken or commenced or imposed under the provisions of this Act as if this Act was in force at the time such thing was done or action taken or proceedings commenced or tax imposed.

By Order of the Governor,

B. R. PRADHAN,
Secretary to the Government of Sikkim,
Law and Legislative Department,
Government of Sikkim,
F. No. 16 (84)LL/79.